

DATE MAILED
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PSC REF#:179285

Public Service Commission of Wisconsin
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PUBLIC SERVICE COMMISSION OF WISCONSIN

Application of Oak Creek Water and Sewer Utility, Milwaukee County,
Wisconsin, for Authority to Increase Water Rates

4310-WR-104

ORDER

This is the Order on the December 6, 2012, request by Oak Creek¹, Franklin² and Caledonia³ for approval of a Stipulation and Order to Stay Proceedings in this docket. ([PSC REF#: 177567.](#)) At its open meeting of January 9, 2013, the Commission DENIED the request and ORDERED the parties to proceed to the March 12, 2013, limited hearing as scheduled.

Wisconsin Stat. § 227.44(5) allows informal disposition of any contested case. Only the Commission may “[i]nformally dispose of a proceeding, in accordance with s. 227.44(5).” Wis. Admin. Code § PSC 2.04(2)(d).

Oak Creek and its wholesale customers, Franklin and Caledonia, are the only parties in this docket. Oak Creek filed an application to increase water rates on May 10, 2011. ([PSC REF#: 147950](#), [PSC REF#: 147951.](#)) The Commission held a contested case hearing on April 26, 2012, and issued a delegated Final Decision on July 23, 2012. ([PSC REF#: 168775.](#)) On September 25, 2012, at the request of the parties, the Commission reopened this docket to reconsider the Final Decision. ([PSC REF#: 172957.](#)) At its open meeting of October 3, 2012, the Commission made a preliminary determination to modify certain aspects of its Final Decision based upon the record developed during the April 26, 2012, hearing. ([PSC REF#: 173880.](#))

¹ Oak Creek Water and Sewer Utility.

² City of Franklin Municipal Water Utility.

³ Village of Caledonia Water Utility.

The Commission's preliminary determination narrowed the differential rate of return between wholesale and retail customers, from 180 to 100 basis points, and reduced from 50 percent to zero the allocation of the 12-inch water mains to transmission. The Commission provided a further opportunity for a hearing limited to the two modified issues, allowing only new evidence to be presented at that hearing.

On October 10, 2012, Oak Creek requested a hearing. ([PSC REF#: 174347.](#)) On December 5, 2012, the parties submitted a joint agreement on a proposed schedule for pre-filed testimony and hearing set for March 12, 2013. ([PSC REF#: 177604.](#)) On December 6, 2012, the parties filed the instant Stipulation asking that proceedings in this docket be stayed.

Approving the Stipulation effectively voids the Commission's October 3, 2012, preliminary determination and reinstates the July 23, 2012, Final Decision without a legal or factual basis. Therefore, the Commission DENIES the request to approve the Stipulation.

Furthermore, the Commission ORDERS the parties to follow their own proposed pre-filing schedule and March 12, 2013, limited hearing.

Dated at Madison, Wisconsin, this 16th day of January, 2013.

By the Commission:



Sandra J. Paske
Secretary to the Commission

SJP:DLP:pc DL:00634611 4310-WR-104 Order on Stipulation Request.docx

See attached Notice of Rights

PUBLIC SERVICE COMMISSION OF WISCONSIN
610 North Whitney Way
P.O. Box 7854
Madison, Wisconsin 53707-7854

**NOTICE OF RIGHTS FOR REHEARING OR JUDICIAL REVIEW, THE
TIMES ALLOWED FOR EACH, AND THE IDENTIFICATION OF THE
PARTY TO BE NAMED AS RESPONDENT**

The following notice is served on you as part of the Commission's written decision. This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

PETITION FOR REHEARING

If this decision is an order following a contested case proceeding as defined in Wis. Stat. § 227.01(3), a person aggrieved by the decision has a right to petition the Commission for rehearing within 20 days of mailing of this decision, as provided in Wis. Stat. § 227.49. The mailing date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The petition for rehearing must be filed with the Public Service Commission of Wisconsin and served on the parties. An appeal of this decision may also be taken directly to circuit court through the filing of a petition for judicial review. It is not necessary to first petition for rehearing.

PETITION FOR JUDICIAL REVIEW

A person aggrieved by this decision has a right to petition for judicial review as provided in Wis. Stat. § 227.53. In a contested case, the petition must be filed in circuit court and served upon the Public Service Commission of Wisconsin within 30 days of mailing of this decision if there has been no petition for rehearing. If a timely petition for rehearing has been filed, the petition for judicial review must be filed within 30 days of mailing of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition of the petition for rehearing by operation of law pursuant to Wis. Stat. § 227.49(5), whichever is sooner. If an *untimely* petition for rehearing is filed, the 30-day period to petition for judicial review commences the date the Commission mailed its original decision.⁴ The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

If this decision is an order denying rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not permitted.

Revised: December 17, 2008

⁴ See *State v. Currier*, 2006 WI App 12, 288 Wis. 2d 693, 709 N.W.2d 520.